



DEXTER TOWNSHIP

ZONING BOARD OF APPEALS

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DONALD DARNELL,
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VICE CHAIR

MARY ADAMS,
SECRETARY

BROOK SMITH
JAMIE HODGES

JAMES CORMIER, ALT.

STEVE BURCH, ALT.

DENETTE BOLYARD.

REGULAR MEETING OF THE ZONING BOARD OF APPEALS

Tuesday, October 1, 2013

Members present: Chairperson Donald Darnell, Mary Adams, Secretary and Planning Commission Representative, Jim Drolett, Brook Smith, and Jamie Hodges

Absent:

Also Present: Zach Michels, Planning and Zoning Director, and DeNette Bolyard, Recording Secretary.

- I. **Call to Order:** The meeting was called to order by Chairperson Darnell at 6:00 p.m.
- II. **Pledge of Allegiance:** Chairperson Darnell led the Pledge of Allegiance to the Flag.
- III. **Approval of Agenda:** Chairperson Darnell read the proposed agenda.
Moved by Drolett , **seconded** by Hodges to approve the agenda as read.
Motion carried by voice vote.

IV. **Public Comment- Non Agenda Items:** None

V. **Action Items:**

Action Item: # 1
Appeal Number: 13-ZBA-779
Applicant Name(s): John & Keri Riegger
Property Tax ID: 04-06-289-002/003 & 04-06-176-026
Address: 9265 Lakeview

Purpose of Variance Request: petition for *four developmental-standard variances* to build a new house & detached garage. Variances are for a **reduced front-yard (road) setback of twenty-two (22) feet rather than the twenty-five (25) feet required**, a **reduced rear-yard setback of thirteen point three (13.3) feet rather than the thirty (30) feet required**, a **reduced front-yard setback of eleven point seven five (11.75) feet rather than the twenty-five (25) feet required**, & a **reduced rear-yard setback of eleven point seven five (11.75) feet rather than the twenty-five (25) feet required**.

Chairperson introduced the case as noted above and did not read aloud persons noticed for this hearing, but noted that the list would be kept on file in the Township Office.

Zoning Report

Report by DPZ Michels, dated September 20, 2013, was summarized by DPZ Michels and the entire report is on file in the applicant's property file.

Q & A with DPZ Michels:

Smith questioned if the property to the north of the property seeking the variance was given notice of the hearing. DPZ Michels checked Washtenaw County GIS and confirmed that they were within the 300' noticing requirements and were sent a notice.

Drolett asked if the only reason the applicant needed to ask for a variance for the garage is because of the height. DPZ Michels explained that the rear-yard setback for accessory building is dependent on the height of the structure. The proposed height for this structure is 25' (to the midpoint). Making the minimum rearyard setback is the height of the structure or 10 feet, whichever is greater.

Adams was concerned that the garage would impede the viewshed. DPZ Michels explained that it would not.

Applicant Presentation and Q & A with the ZBA:

John & Keri Reiger were present to answer questions that the Board may have.

The Board had concerns that the garage was going to be 2 stories high. The applicant said he would like to make the second story a woodworking room.

Discussion was held regarding the second story of the garage and Darnell asked the applicant if he thought about reducing the size of the garage or the height.

Public Hearing:

There were no letters from neighbors on record.

Daryl Wetzel
9595 Lakeview

Neighbor of the applicant. Is in support of the variance being requested.

ZBA Deliberations:

Board discussion was held and the main concern was the height of the garage so close to the road

Standards of Review

The Board decided to vote on the front and rear yard setback variances for the house separately from the front and rear setbacks for the detached garage.

Use 4.05(C)(1)(a) Does the requested variance meet the following standard:	12.02(E)(3) a/18.23(A) Front-yard Setback for House	12.01(E)(3) c Rear-yard Setback for House	12.02(E)(3) a/18.23(A) Front-yard Setback for Garage	18.18(C) Rear-yard Setback for Garage
<i>The variance shall not permit the establishment, within a district, of any use which is not a permitted principal use within that district.</i> <i>Single-family houses and garages are permitted uses in Lake</i>	<u>YES</u> Drolett	<u>YES</u> Drolett	Postponed	Postponed

<i>Residential Districts. However, the ZBA may make different findings following a public hearing.</i>	Hodges Adams Smith Darnell	Hodges Adams Smith Darnell		
Property Control 4.05(C)(1)(b) Does the requested variance meet the following standard:	12.02(E)(3) a/18.23(A) Front-yard Setback for House	12.01(E)(3) c Rear-yard Setback for House	12.02(E)(3) a/18.23(A) Front-yard Setback for Garage	18.18(C) Rear-yard Setback for Garage
The variance will relate only to the property under the control of the applicant.	<u>YES</u>	<u>YES</u>	Postponed	Postponed
<i>The property is owned and controlled by the applicants. However, the ZBA may make different findings following a public hearing.</i>	Drolett Hodges Adams Smith Darnell	Drolett Hodges Adams Smith Darnell		
Practical Difficulty: Economic Circumstances 4.05(C)(1)(c)(i) Does the requested variance meet the following standard:	12.02(E)(3) a/18.23(A) Front-yard Setback for House	12.01(E)(3) c Rear-yard Setback for House	12.02(E)(3) a/18.23(A) Front-yard Setback for Garage	18.18(C) Rear-yard Setback for Garage
The practical difficulties shall not be economic nor shall the inability to attain a higher financial return be considered a practical difficulty.	<u>YES</u>	<u>YES</u>	Postponed	Postponed
<i>The alleged practical difficulties do not appear to be economic, but the addition of a garage on the back lot will likely increase the value of the lot. However, the ZBA may make different findings following a public hearing.</i>	Drolett Hodges Adams Smith Darnell	Drolett Hodges Adams Smith Darnell		
Practical Difficulty: Actions of the Applicant 4.05(C)(1)(c)(ii) Does the requested variance meet the following standard:	12.02(E)(3) a/18.23(A) Front-yard Setback for House	12.01(E)(3) c Rear-yard Setback for House	12.02(E)(3) a/18.23(A) Front-yard Setback for Garage	18.18(C) Rear-yard Setback for Garage
The practical difficulties shall not be self-created or result from actions of the applicant.	<u>YES</u>	<u>YES</u>	Postponed	Postponed
<i>It does not appear that the applicant is responsible for the alleged practical difficulties. The shallow rear lot was created many years ago, and the sloping topography was created by glaciers. However, the ZBA may make different findings following a public hearing.</i>	Drolett Hodges Adams Smith Darnell	Drolett Hodges Adams Smith Darnell		
Practical Difficulty: Physical Conditions 4.05(C)(1)(c)(iii) Does the requested variance meet the following standard:	12.02(E)(3) a/18.23(A) Front-yard Setback for House	12.01(E)(3) c Rear-yard Setback for House	12.02(E)(3) a/18.23(A) Front-yard Setback for Garage	18.18(C) Rear-yard Setback for Garage
The practical difficulty exists because of physical conditions such as narrowness, shallowness, shape, or topography of the property involved.	<u>YES</u>	<u>YES</u>	Postponed	Postponed
<i>The front lot does not appear to be narrow, shallow, or of unusual shape. Although the lot area is smaller than what's required for lots in the Lake Residential District, the building envelope measures roughly 44 feet deep by 89 feet wide. The property does slope downwards from north to south by roughly 10 feet. The back lot is relatively shallow, at</i>	Drolett Hodges Adams Smith Darnell	Drolett Hodges Adams Smith Darnell		

<i>only 49.5 feet deep. With a 10-foot-tall detached accessory building, the building envelope would be 14 feet deep by 89 feet wide. Because the proposed garage is 25 feet high, the rear and side setbacks are increased, completely eliminating the buildable envelope. However, the ZBA may make different findings following a public hearing.</i>				
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Unreasonable Burden 4.05(C)(1)(d) Does the requested variance meet the following standard:	12.02(E)(3) a/18.23(A) Front-yard Setback for House	12.01(E)(3) c Rear-yard Setback for House	12.02(E)(3) a/18.23(A) Front-yard Setback for Garage	18.18(C) Rear-yard Setback for Garage
Strict compliance with area, setbacks, frontage, height, bulk, or density would unreasonably prevent the owner from using the property for a permitted purpose, or would render conformity unreasonably burdensome.	<u>YES</u> Drolett Hodges Adams Smith Darnell	<u>YES</u> Drolett Hodges Adams Smith Darnell	Postponed	Postponed
<i>It appears that strict compliance with the standards of the Zoning Ordinance would make it more difficult to construct a new house on the front lot, require more efforts to regrade the property, require removal of trees, and changes to the building plans, but it may be possible to construct a smaller or reconfigured house on the property without the requested variances. Strict compliance with the standards of the Zoning Ordinance would make it impossible to build the proposed detached garage on the back lot. However, it may be possible to build a shorter, narrower garage on the property. This would likely limit its functionality for storage of boats. However, the ZBA may make different findings following a public hearing.</i>				

Minimum Variance Necessary 4.05(C)(1)(e) Does the requested variance meet the following standard:	12.02(E)(3) a/18.23(A) Front-yard Setback for House	12.01(E)(3) c Rear-yard Setback for House	12.02(E)(3) a/18.23(A) Front-yard Setback for Garage	18.18(C) Rear-yard Setback for Garage
The variance requested is the minimum amount necessary to overcome the inequality inherent in the particular property or mitigate the practical difficulty.	<u>YES</u> Drolett Hodges Adams Smith Darnell	<u>YES</u> Drolett Hodges Adams Smith Darnell	Postponed	Postponed
<i>The requested front-yard setback for the house appears to be rather minimal, as it is only for the overhang. The requested rear-yard setback for the house appears to be rather minimal, as the walls will be several feet beyond the overhang and there is an existing deck that is closer to the rear-lot line. The requested setbacks for the garage would place it in the middle of the lot, from front to back. If the height of the structure were lessened, the rear-yard setback would decrease, lessening the amount of variance necessary. However, the ZBA may make different findings following a public hearing.</i>				

Adverse Effect 4.05(C)(1)(f) Does the requested variance meet the following standard:	12.02(E)(3) a/18.23(A) Front-yard Setback for House	12.01(E)(3) c Rear-yard Setback for House	12.02(E)(3) a/18.23(A) Front-yard Setback for Garage	18.18(C) Rear-yard Setback for Garage
The variance requested will not cause a substantial adverse effect upon surrounding properties, property values, and the use and enjoyment of property in the neighborhood or district, including public safety.	<u>YES</u> Drolett	<u>YES</u> Drolett	Postponed	Postponed

<p><i>The requested variance does not appear to substantially affect the use or enjoyment of the surrounding properties. Because of the nature of the road and the neighborhood, it does not appear that the reduced setbacks will increase public safety hazards due to fire or traffic. However, the ZBA may make different findings following a public hearing.</i></p>	<p>Hodges Adams Smith Darnell</p>	<p>Hodges Adams Smith Darnell</p>		
<p>Intent of the Ordinance 4.05(C)(1)(g) Does the requested variance meet the following standard:</p>	<p>12.02(E)(3) a/18.23(A) Front-yard Setback for House</p>	<p>12.01(E)(3) c Rear-yard Setback for House</p>	<p>12.02(E)(3) a/18.23(A) Front-yard Setback for Garage</p>	<p>18.18(C) Rear-yard Setback for Garage</p>
<p><i>The variance will be in harmony with the general purpose and intent of this Ordinance.</i></p>	<p><u>YES</u></p>	<p><u>YES</u></p>	<p>Postponed</p>	<p>Postponed</p>
<p><i>The variances do not appear to have a significant impact on the health, safety, or welfare of adjacent properties or the community. It may be possible to build a differently configured house with fewer or no variances, but there may be issues with the topography and the house might be out-of-character with the neighborhood. It may be difficult to build a multi-car garage on the back lot without receiving a variance. However, the ZBA may make different findings following a public hearing.</i></p>	<p>Drolett Hodges Adams Smith Darnell</p>	<p>Drolett Hodges Adams Smith Darnell</p>		

Chairperson Darnell declared all of the Standards of review have been met for the house.

There was a motion by Hodges, support by Smith to approve the variance requested for the front-yard and rear-yard for the house only.

Roll Call Vote:

Adams YES Drolett YES Smith YES Hodges YES Darnell YES

Motion Carried

The applicant requested that the variance request for the garage be postponed to allow time for the applicant to change his plans.

Moved by Drolett, second by Smith to postpone to the December 3, 2013, meeting.

Carried

<p>Action Item: # 2</p>
<p>Appeal Number: 13-ZBA-780</p>
<p>Applicant Name(s): Frank & Lisa Johnson</p>
<p>Property Tax ID: 04-02-400-026</p>
<p>Address: 9411 Dexter Pinckney Rd</p>
<p>Purpose of Variance Request: petition for six developmental-standard variances to build a new house. Variances are for a reduced front-yard (water) setback of thirty point five (30.5) feet rather than the fifty (50) feet required, a reduced water setback of twenty-five</p>

point five (25.5) feet rather than the thirty-five (35) feet required, a reduced front-yard (water) setback of twenty (20) feet rather than the fifty (50) feet required, an increased lot coverage of twenty-five point four (25.4) percent rather than the twenty-five (25) percent allowed, an increased fence height of six (6) feet rather than the three (3) feet allowed, and a reduced fence open space of zero (0) percent rather than the fifty (50) percent required.

Chairperson Darnell introduced the case as noted above and did not read aloud persons noticed for this hearing but noted that the list would be kept on file in the Township Office.

Zoning Report

Report by DPZ Michels, dated September 20, 2013, was summarized by DPZ Michels and the entire report is on file in the applicant’s property file.

Q & A with DPZ, Michels:

- Darnell asked for confirmation on what variances were being requested and what currently exists. He also asked if a fence was considered in the last variance that was requested.
- Smith asked DPZ Michels if he had received his email questioning existing nonconforming structures. He wanted confirmation in what they were supposed to be considering. He had thought they were looking at what is there and what is proposed. Discussion continued with Board members and DPZ Michels about what Michels nterpretation of nonconforming structures was..

Applicant Presentation and Q & A with the ZBA:

Frank & Lisa Johnson, applicants, were present to explain to the Board what variances they were requesting and why.

Public Hearing:

There were no letters from neighbors on record.

Standards of Review:

Use 4.05(C)(1)(a) Does the requested variance meet the following standard:	12.02(E)(3) a/ 18.23(B) Front-yard (water) from Little Portage	18.18(C)(1) Water Setback for At-Grade Deck	12.02(E)(3) a/ 18.23(B) Front-yard (water) from Canal	12.02(E)(4) Lot Coverage	18.18(F)(2) Fence Height	18.18(F)(2) Fence Open Space
The variance shall not permit the establishment, within a district, of any use which is not a permitted principal use within that district.	<u>YES</u>	<u>YES</u>	<u>YES</u>	<u>YES</u>	<u>YES</u>	<u>YES</u>
<i>Single-family houses are a permitted use in Lake Residential Districts. However, the ZBA may make different findings</i>	Drolett Hodges Adams	Drolett Hodges Adams	Drolett Hodges Adams	Drolett Hodges Adams	Drolett Hodges Adams	Drolett Hodges Adams

<i>following a public hearing.</i>	Smith Darnell	Smith Darnell	Smith Darnell	Smith Darnell	Smith Darnell	Smith Darnell
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Property Control 4.05(C)(1)(b) Does the requested variance meet the following standard:	12.02(E)(3) a/ 18.23(B) Front-yard (water) from Little Portage	18.18(C)(1) Water Setback for At-Grade Deck	12.02(E)(3) a/ 18.23(B) Front-yard (water) from Canal	12.02(E)(4) Lot Coverage	18.18(F)(2) Fence Height	18.18(F)(2) Fence Open Space
The variance will relate only to the property under the control of the applicant.	<u>YES</u>	<u>YES</u>	<u>YES</u>	<u>YES</u>	<u>YES</u>	<u>YES</u>
<i>The property is owned and controlled by FMJ Properties, which the applicants control. However, the ZBA may make different findings following a public hearing.</i>	Drolett Hodges Adams Smith Darnell	Drolett Hodges Adams Smith Darnell	Drolett Hodges Adams Smith Darnell	Drolett Hodges Adams Smith Darnell	Drolett Hodges Adams Smith Darnell	Drolett Hodges Adams Smith Darnell

Practical Difficulty: Economic Circumstances 4.05(C)(1)(c)(i) Does the requested variance meet the following standard:	12.02(E)(3) a/ 18.23(B) Front-yard (water) from Little Portage	18.18(C)(1) Water Setback for At-Grade Deck	12.02(E)(3) a/ 18.23(B) Front-yard (water) from Canal	12.02(E)(4) Lot Coverage	18.18(F)(2) Fence Height	18.18(F)(2) Fence Open Space
The practical difficulties shall not be economic nor shall the inability to attain a higher financial return be considered a practical difficulty.	<u>YES</u>	<u>YES</u>	<u>YES</u>	<u>YES</u>	<u>YES</u>	<u>YES</u>
<i>The proposed house will likely have a higher value than the current duplex. The alleged practical difficulties, however, appear related to the fact that the lot has water setbacks from two sides. It would not be possible to construct any new house without variances. The proposed sunshade trellis, while adding to the property's architectural aesthetic, would reduce the operating costs of the house by reducing the heating load. However, the ZBA may make different findings following a public hearing.</i>	Drolett Hodges Adams Smith Darnell	Drolett Hodges Adams Smith Darnell	Drolett Hodges Adams Smith Darnell	Drolett Hodges Adams Smith Darnell	Drolett Hodges Adams Smith Darnell	Drolett Hodges Adams Smith Darnell

Practical Difficulty: Actions of the Applicant 4.05(C)(1)(c)(ii) Does the requested variance meet the following standard:	12.02(E)(3) a/ 18.23(B) Front-yard (water) from Little Portage	18.18(C)(1) Water Setback for At-Grade Deck	12.02(E)(3) a/ 18.23(B) Front-yard (water) from Canal	12.02(E)(4) Lot Coverage	18.18(F)(2) Fence Height	18.18(F)(2) Fence Open Space
The practical difficulties shall not be self-created or result from actions of the applicant.	<u>YES</u>	<u>YES</u>	<u>YES</u>	<u>YES</u>	<u>YES</u>	<u>YES</u>
<i>The alleged practical difficulties do not appear to be self-created; the applicant is not responsible for the geometry of the lot with multiple water-body setbacks or the slope down from the road. However, the ZBA may make different findings following a public hearing.</i>	Drolett Hodges Adams Smith Darnell	Drolett Hodges Adams Smith Darnell	Drolett Hodges Adams Smith Darnell	Drolett Hodges Adams Smith Darnell	Drolett Hodges Adams Smith Darnell	Drolett Hodges Adams Smith Darnell

Practical Difficulty: Physical Conditions 4.05(C)(1)(c)(iii) Does the requested variance meet the following standard:	12.02(E)(3) a/ 18.23(B) Front-yard (water) from Little Portage	18.18(C)(1) Water Setback for At-Grade Deck	12.02(E)(3) a/ 18.23(B) Front-yard (water) from Canal	12.02(E)(4) Lot Coverage	18.18(F)(2) Fence Height	18.18(F)(2) Fence Open Space
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<p>The variance requested will not cause a substantial adverse effect upon surrounding properties, property values, and the use and enjoyment of property in the neighborhood or district, including public safety.</p> <p><i>The proposed setbacks from Little Portage Lake do not appear to have a substantial adverse effect upon surrounding properties. The proposed house and deck/patio are closer to the water than allowed, but are not as close as the current house. It does not appear that the proposed house and/or deck patio will significantly impact the use of the adjacent properties. The proposed setback for the sunshade trellis would be closer to the canal than the current house, but its open nature is likely to result in less impact than if it were an enclosed structure. The proposed lot coverage does not appear to affect surrounding properties or the district because it will not increase the impervious area and will be of an open nature. The proposed fence will increase privacy for the proposed house entrance, but most houses in the area have entrances that are visible from the street. However, the ZBA may make different findings following a public hearing.</i></p>	<u>YES</u>	<u>YES</u>	<u>YES</u>	<u>YES</u>	<u>YES</u>	<u>YES</u>
	Drolett Hodges Adams Smith Darnell	Drolett Hodges Adams Smith Darnell	Drolett Hodges Adams Smith Darnell	Drolett Hodges Adams Smith Darnell	Drolett Hodges Adams Smith Darnell	Drolett Hodges Adams Smith Darnell

<p>Intent of the Ordinance 4.05(C)(1)(g) Does the requested variance meet the following standard:</p>	12.02(E)(3)a/ 18.23(B)	18.18(C)(1)	12.02(E)(3)a/ 18.23(B)	12.02(E)(4)	18.18(F)(2)	18.18(F)(2)
	Front-yard (water) from Little Portage	Water Setback for At-Grade Deck	Front-yard (water) from Canal	Lot Coverage	Fence Height	Fence Open Space
<p>The variance will be in harmony with the general purpose and intent of this Ordinance.</p> <p><i>Several of the variances appear to be consistent with the goals of providing relief from strict interpretation of the standards of the Zoning Ordinance. None of the variances appear to have an impact on the public health, safety, and welfare. However, the ZBA may make different findings following a public hearing.</i></p>	<u>YES</u>	<u>YES</u>	<u>YES</u>	<u>YES</u>	<u>YES</u>	<u>YES</u>
	Drolett Hodges Adams Smith Darnell	Drolett Hodges Adams Smith Darnell	Drolett Hodges Adams Smith Darnell	Drolett Hodges Adams Smith Darnell	Drolett Hodges Adams Smith Darnell	Drolett Hodges Adams Smith Darnell

Darnell declared that all standards have been met

Drolett moved to grant the variance to allow the setbacks from the canal and the lake to be reduced, allow the lot coverage to be increased to 25.4%, and the fence height to be 6' and the opacity to be increased from 50% to 100%. Conditioned upon that the structure approved described as the pergola be drawn and approved by DPZ Michels, with no closed sides. Seconded by Smith.

Roll Call Vote:

Adams YES Drolett YES Smith YES Hodges YES Darnell YES

Motion Carried

Item: #3 - Review of Decision Criteria for Variances, Appeals, and Extensions.

The ZBA reviewed the current variance decision criteria and criteria from other communities, including appeals and extensions. Drolett shared a draft decision criteria with the ZBA. The ZBA directed DPZ Michels to prepare a compilation of Drolett's and of simpler criteria (Group 3 in the staff report).

VI. Approval of Meeting Minutes: September 3, 2013

Motion by, Drolett, support by Smith to approve as amended.

Motion carried by voice vote.

VII. Concerns of Board Members, Planning Director, Recording Secretary:

DPZ Michels asked the Board how they liked the changes in the decision criteria.

Chairperson Darnell asked for the variance details to be added to the review standard section.

VIII. Adjournment

Chairperson declared the meeting adjourned at 8:45 p.m.

Respectfully submitted,

DeNette Bolyard,
Recording Secretary

Mary Adams,
ZBA Secretary

These minutes have been approved by majority vote at the _____ Zoning Board of Appeals Meeting.